

CHAPTER 1 FINANCIAL INSTITUTIONS

Article 5

International Banking Corporations and Bank Agencies.

- 7-1-710. Definitions.
- 7-1-711. Application of this chapter.
- 7-1-712. Application of Article 15 of Chapter 2 of Title 14.
- 7-1-713. Requirements for carrying on banking business.
- 7-1-714. Actions against international banking corporations.
- 7-1-715. Application for license.
- 7-1-716. Effect, renewal, and revocation of licenses; permissible activities.
- 7-1-717. Securities, and other evidence of indebtedness to be held in this state.
- 7-1-718. Financial certifications; restrictions on investments, loans, and acceptances.
- 7-1-719. Reports.
- 7-1-720. Dissolution.
- 7-1-721. International representative offices.

Article 5A

Domestic International Banking Facilities.

- 7-1-730. Short title.
- 7-1-731. "Domestic international banking facility" defined.
- 7-1-732. Eligibility to operate domestic international banks; registration required; records; exemption from taxes and license fees.
- 7-1-733. Rejection or revocation of registration as a domestic international banking facility.
- 7-1-734. Examination and supervision by the department; agreements with other bank regulatory authorities.

ARTICLE 5 INTERNATIONAL BANKING CORPORATIONS AND BANK AGENCIES

7-1-710. Definitions.

As used in this article, the term:

(1) "International bank agency" means the international banking corporation with respect to all business or activities conducted in this state or through an office located in this state.

(2) "International banking corporation" means a banking corporation organized and licensed under the laws of some foreign country or a political subdivision thereof, other than the United States of America or any of the states within the United States of America. For purposes of this article, a foreign country shall include any territories or possessions of the United States.

(Ga. L. 1972, p. 1140, 1; Code 1933, 41A-3301, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1989, p. 1211, 15.)

7-1-711. Application of this chapter.

International bank agencies shall be subject to all the provisions of Articles 1 and 2 of this chapter, except where it may appear, from the context or otherwise, that such provisions are clearly applicable only to banks or trust companies organized under the laws of this state or the United States. An international bank agency shall have no greater right under or by virtue of this article and amendments thereto than is granted to banks organized under the laws of this state. Legal and financial terms used herein shall be deemed to refer to equivalent terms used by the country in which the international banking corporation is organized.

(Ga. L. 1972, p. 1140, 2; Code 1933, 41A-3302, enacted by Ga. L. 1974, p. 705, 1.)

7-1-712. Application of Article 15 of Chapter 2 of Title 14.

Notwithstanding the definition of the term "foreign corporation" appearing in paragraph (13) of Code [Section 14-2-140](#), all of the provisions of Article 15 of [Chapter 2](#) of [Title 14](#), relating to foreign corporations, shall apply to all international bank agencies doing business in this state, except that references therein to the Secretary of State should be construed as references to the department.

(Ga. L. 1972, p. 1140, 3; Code 1933, 41A-3303, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1989, p. 946, 70; Ga. L. 1989, p. 1257, 24; Ga. L. 2004, p. 508, 70.)

7-1-713. Requirements for carrying on banking business.

(a) No international banking corporation shall transact a banking business or maintain in this state any office for carrying on such business or any part thereof unless such corporation shall have:

(1) Been authorized by its articles to carry on such business and shall have complied with the laws of the country under which it is chartered;

(2) Furnished to the department such proof as to the nature and character of its business and as to its financial condition as the department may require;

(3) Filed with the department:

(A) A duly executed instrument in writing, by its terms of indefinite duration and irrevocable, appointing the department its true and lawful attorney upon whom all process in any action against it may be served with the same force and effect as if it were a domestic corporation and had been lawfully served with process within the state; and

(B) A written certificate of designation, which may be changed from time to time thereafter by the filing of a new certificate of designation, specifying the name and address of the officer, agent, or other person to whom such process shall be forwarded by the department;

(4) Paid to the department the fee established by regulation of the department to defray the cost of investigation and supervision; and

(5) Received a license duly issued to it by the department.

(b) The department shall not issue a license to an international banking corporation unless it is chartered in a country which permits banks chartered in the United States of America or any of its states to establish similar facilities therein.

(Ga. L. 1972, p. 1140, 4; Code 1933, 41A-3304, enacted by Ga. L. 1974, p. 705, 1.)

7-1-714. Actions against international banking corporations.

(a) An action against an international banking corporation doing business in this state may be maintained by a resident of this state for any cause of action. For purposes of this subsection, the term "resident of this state" shall include any corporation formed under the laws of this state.

(b) An action against an international banking corporation doing business in this state may be maintained by another international banking corporation or by a nonresident of this state in the following cases only:

(1) Where the action is brought to recover damages for the breach of a contract made or to be performed within this state or relating to property situated within this state at the time of the making of the contract;

(2) Where the subject matter of the litigation is situated within this state;

(3) Where the cause of action arose within this state, except where the object of the action is to affect the title of real property situated outside this state; or

(4) Where the action is based on a liability for acts done within this state by an international banking corporation or its international bank agency.

(Ga. L. 1972, p. 1140, 5; Code 1933, 41A-3305, enacted by Ga. L. 1974, p. 705, 1.)

7-1-715. Application for license.

(a) Every international banking corporation, before being licensed by the department to transact a banking business in this state or before maintaining in this state any office to carry on such business or any part thereof, shall subscribe and acknowledge and submit to the department at its office a separate application, in duplicate, which shall state:

(1) The name of such international banking corporation;

(2) The location by street and post office address and county where its business is to be transacted in this state and the name of the person who shall be in charge of the business and affairs of such agency;

(3) The location where its initial registered office will be located in this state;

(4) The amount of its capital actually paid in and the amount subscribed for and unpaid; and

(5) The actual value of the assets of such international banking corporation, which must be at least \$50 million in excess of its liabilities, and a complete and detailed statement of its financial condition as of a date within 60 days prior to the date of such application; except that the department, in its discretion, may, when necessary or expedient, accept such statement of financial condition as of a date within 120 days prior to the date of such application.

(b) At the time such application is submitted to the department, such corporation shall also submit a duly authenticated copy of its articles and an authenticated copy of its bylaws, or an equivalent thereof satisfactory to the department, and pay an investigation and supervision fee to be established by regulation of the department.

(Ga. L. 1972, p. 1140, 6; Code 1933, 41A-3306, enacted by Ga. L. 1974, p. 705, 1.)

7-1-716. Effect, renewal, and revocation of licenses; permissible activities.

(a) When the department shall have issued a license to any such international banking corporation, it may engage in the business authorized by this article at the office specified in such license until the license expires or until such license is surrendered or revoked. The department may establish the license period by regulation. No such license shall be transferable or assignable.

(b) Such license may be renewed annually within 30 days of the expiration of such license upon application to the department upon forms to be supplied by it for that purpose. Such license may be renewed by the department upon its determination, with or without examination, that the international banking corporation is in a safe and satisfactory condition, that it has complied with requirements of law with respect to the international bank agency, and that such renewal of the license is proper and has been duly authorized by proper corporate action.

(c) Such license may be revoked by the department, with or without examination, upon its determination that the international banking corporation does not meet the criteria established by subsection (b) of this Code section for renewal of licenses.

(d) In the event any such license shall be revoked by the department or the renewal thereof refused by the department, all the rights and privileges of such international banking corporation to transact the business thus licensed shall forthwith cease, and such license shall be surrendered to the department within 24 hours after the licensee has received written notice of such decision.

(e) An international banking corporation licensed under the terms of this article to carry on business in this state shall be authorized to conduct a general banking business through its international bank agency in like manner as banks existing under the laws of this state, except that no such international banking corporation shall, through such agency, exercise fiduciary

powers or receive deposits but may maintain for the account of others credit balances incidental to or arising out of the exercise of its lawful powers.

(Ga. L. 1972, p. 1140, 7; Code 1933, 41A-3307, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1976, p. 201, 1; Ga. L. 1995, p. 673, 31.)

7-1-717. Securities, and other evidence of indebtedness to be held in this state.

(a) Each international banking corporation shall hold, at its office in this state, currency, bonds, notes, debentures, drafts, bills of exchange, or other evidence of indebtedness or other obligations payable in the United States or in United States funds or, with the prior approval of the department, in funds freely convertible into United States funds in an amount which shall be not less than 108 percent of the aggregate amount of liabilities of such international banking corporation payable at or through its office in this state or as a result of the operations of the international bank agency, including acceptances but excluding:

(1) Accrued expenses; and

(2) Amounts due and other liabilities to other offices or branches of and wholly owned (except for a nominal number of directors' shares) subsidiaries of such international banking corporation.

(b) For the purpose of this Code section, the department shall value marketable securities at principal amount or market value, whichever is lower; shall have the right to determine the value of any nonmarketable bond, note, debenture, draft, bill of exchange, or other evidence of indebtedness or of any other obligation held by or owed to the international banking corporation in this state; and, in determining the amount of assets for the purpose of computing the above ratio of assets to liabilities, shall have the power to exclude any particular assets but may give credit, subject to such rules and regulations as the department may from time to time promulgate, to deposits and credit balances with unaffiliated banking institutions outside this state if such deposits or credit balances are payable in United States funds or in currencies freely convertible into United States funds, provided that credit given for such deposits and credit balances shall not exceed in aggregate amounts such percentage, but not less than 8 percent, as the department may from time to time prescribe of the aggregate amount of liabilities of such international banking corporation, determined as hereinabove provided.

(c) If by reason of the existence or the potential occurrence of unusual or extraordinary circumstances the department deems it necessary or desirable for the maintenance of a sound financial condition, for the protection of creditors and the public interest, and to maintain public confidence in the business of the international bank agency of the international banking corporation, it may reduce the credit to be given as above provided for deposits and credit balances with unaffiliated banking institutions outside this state and it may require such international banking corporation to deposit, in accordance with such rules and regulations as the department shall from time to time promulgate, the assets required to be held in this state pursuant to this Code section with such bank or trust company existing under the laws of this state as such international banking corporation may designate and the department may approve.

(Ga. L. 1972, p. 1140, 8; Code 1933, 41A-3308, enacted by Ga. L. 1974, p. 705, 1.)

7-1-718. Financial certifications; restrictions on investments, loans, and acceptances.

(a) Before opening an office in this state and annually thereafter so long as a bank office is maintained in this state, an international banking corporation, licensed pursuant to this article, shall certify to the department the amount of its paid-in capital, its surplus, and its undivided profits, each expressed in the currency of the country of its incorporation. The dollar equivalent of which amount, as determined by the department, shall be deemed to be the amount of its capital, surplus, and undivided profits.

(b) Purchases and discounts of bills of exchange, bonds, debentures, and other obligations and extensions of credit and acceptances by an international bank agency within this state shall be subject to the same limitations as to amount in relation to capital, surplus, and undivided profits as are applicable to banks organized under the laws of this state; provided, however, that, with the prior approval of the department, the capital notes and capital debentures of such international banking corporation may be treated as capital in computing such limitations.

(Ga. L. 1972, p. 1140, 9; Code 1933, 41A-3309, enacted by Ga. L. 1974, p. 705, 1.)

7-1-719. Reports.

(a) Every international banking corporation doing business in this state shall, at such times and in such form as the department shall prescribe, make written reports in the English language to the department under the oath of one of its officers, managers, or agents transacting business in this state, showing the amount of its assets and liabilities and containing such other matters as the department shall prescribe. If any such international banking corporation shall fail to make any such report, as directed by the department, or if any such report shall contain any false statement knowingly made, the same shall be grounds for revocation of the license of the international banking corporation.

(b) Code [Section 7-1-68](#) shall not apply to international banking corporations or international bank agencies.

(Ga. L. 1972, p. 1140, 10; Code 1933, 41A-3310, enacted by Ga. L. 1974, p. 705, 1.)

7-1-720. Dissolution.

When an international banking corporation licensed to maintain an international bank agency in this state is dissolved or its authority or existence is otherwise terminated or canceled in the jurisdiction of its incorporation, a certificate of the official responsible for records of banking corporations of the jurisdiction of incorporation of such international banking corporation attesting to the occurrence of any such event or a certified copy of an order or decree of a court of such jurisdiction directing the dissolution of such international banking corporation or the termination of its existence or the cancellation of its authority shall be delivered to the department. The filing of the certificate, order, or decree shall have the same effect as the revocation of such international banking corporation's license as provided in subsection (d) of Code [Section 7-1-716](#). The department shall continue as agent of the international banking corporation upon whom process against it may be served in any action based upon any liability or obligation incurred by the international banking corporation within this state prior to the filing

of such certificate, order, or decree; and it shall promptly cause a copy of such process to be mailed by registered or certified mail or statutory overnight delivery, return receipt requested, to such international banking corporation at the post office address specified for such purpose on file with the department.

(Ga. L. 1972, p. 1140, 11; Code 1933, 41A-3311, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 2000, p. 1589, 3.)

7-1-721. International representative offices.

(a) An international bank agency which does not transact a banking business or any part thereof in or through an office in this state but maintains an office in this state for other purposes shall be deemed to have an "international representative office."

(b) Each international representative office located in this state shall register with the Department of Banking and Finance annually on forms prescribed by the department. Such registration shall be filed in accordance with departmental regulation, shall be accompanied by a registration fee prescribed by regulations of the department, and shall list the name and telephone and facsimile numbers of the local representative, the street address of the office, and the nature of the business to be transacted in or through the office.

(c) The department may review the operations of any international representative office annually or at such greater frequency as it deems necessary to assure that the office does not transact a banking business.

(Code 1933, 41A-3312, enacted by Ga. L. 1978, p. 1712, 2; Ga. L. 1995, p. 673, 32.)

ARTICLE 5A DOMESTIC INTERNATIONAL BANKING FACILITIES

7-1-730. Short title.

This article shall be known as the "Domestic International Banking Facility Act."

(Ga. L. 1981, p. 770, 1.)

7-1-731. "Domestic international banking facility" defined.

As used in this article, the term "domestic international banking facility" means the location within this state of any banking office, other than an "international bank agency," as defined in Code [Section 7-1-710](#), which derives its funds (1) from sources outside of the United States, (2) from another domestic international banking facility, or (3) from temporary advances from its parent organization and employs those funds for banking purposes outside of the United States or through its parent organization, but does not accept deposits subject to check or draft. A

domestic international banking facility, when properly established pursuant to this article, shall not be considered to be a "branch office" or "main office" as defined in Code [Section 7-1-600](#).

(Ga. L. 1981, p. 770, 2; Ga. L. 1999, p. 674, 28.)

7-1-732. Eligibility to operate domestic international banks; registration required; records; exemption from taxes and license fees.

(a) Any bank, whether domiciled within this state or elsewhere and having total capital funds of \$25 million or more, as reported to its chartering authority as of December 31 of each year, may establish and operate a domestic international banking facility in this state upon compliance with this article. Any bank having total capital funds of \$25 million or less may establish such facility upon compliance with this article and upon further obtaining the approval of the department. The department shall grant such approval only after it has satisfied itself that the registrant is financially sound, is operating in substantial conformity with all applicable laws and regulations, and is, along with its principals, of good character and reputation.

(b) Prior to establishing a domestic international banking facility and annually thereafter for so long as the facility shall continue in this state, the bank shall register with the department on such forms as the department shall prescribe and pay a registration fee as determined by the department. Such registration shall include:

- (1) The name and main office address of the registrant;
- (2) The address at which the facility is to be located;
- (3) The names of the individuals responsible for administering the business affairs of the facility in this state;
- (4) The name and address of the chartering authority for the registrant;
- (5) A resolution from the board of directors or other governing body of the registrant authorizing the establishment of the facility;
- (6) A statement of the registrant that it has the legal capacity under the laws pursuant to which it is organized to establish the facility and that its chartering authority (and regulatory authority if different) interposes no objection to the establishment of such facility; and
- (7) Such other information as the department may require.

Information required in paragraphs (5) and (6) of this subsection need not be resubmitted upon renewal of a registration. The facility shall promptly notify the department of any change in the management or location of the facility.

(c) The domestic international banking facility shall maintain records of its business activities separate from records of the domestic banking activities of its parent or head office.

(d) The domestic international banking facility shall not be subject to any tax or license fee in this state by virtue of its business location in this state or its business activities outside of this state.

(Ga. L. 1981, p. 770, 3.)

7-1-733. Rejection or revocation of registration as a domestic international banking facility.

(a) The department may revoke any registration or reject any application to register or renew a registration for a domestic international banking facility upon a finding that:

(1) The facility no longer qualifies to register under this article;

(2) The scope of the business conducted by the facility exceeds that authorized by this article;

(3) The chartering authority of the parent bank of the facility requests such action in writing;
or

(4) The department determines, on its own initiative or otherwise, that representations made by the registrant, including, but not limited to, representations under paragraph (6) of subsection (b) of Code [Section 7-1-732](#), are inaccurate.

(b) No facility whose registration has been rejected by the department may establish an international banking facility in this state.

(Ga. L. 1981, p. 770, 4.)

7-1-734. Examination and supervision by the department; agreements with other bank regulatory authorities.

(a) The department may examine the operations of any domestic international banking facility for the purpose of determining that the scope of its activities does not exceed that allowed pursuant to this article and that the facility is otherwise operating in compliance with the applicable laws of this state. The department may by regulation establish minimum requirements for the maintenance of books and records in sufficient form to enable the department to carry out its responsibilities under this Code section.

(b) The department may enter into cooperative and reciprocal agreements with the bank regulatory authority of any government for the periodic examination of banking offices and facilities of any kind, including domestic international banking facilities, located within this state and may accept records from such authorities in lieu of conducting its own examination for compliance with laws of this state.

(Ga. L. 1981, p. 770, 5.)